



LIQUOR CONTROL BOARD  
INTER-OFFICE  
CORRESPONDENCE

City: Olympia

Date: September 23, 1988

To: The Board and Division Heads

From: M. Carter Mitchell, PIO/ML

Subject: REVIEW OF SEPTEMBER 22 MEETING OF HOUSE COMMERCE & LABOR COMMITTEE

DISTRIBUTION:

Chairman Pedersen  
Board Member Hannah  
Board Member O'Connor  
Division Heads

The interim study of the Liquor Control Board continued Thursday, September 22 as members of the House Commerce and Labor Committee held a three hour hearing on a variety of subjects. The following is a synopsis of that hearing:

1. TIED-HOUSE LAW PROPOSALS

This portion of the hearing which was started in August continued with input from retailers and wholesalers alike. The retailers sought to have the "cash law" modified to permit beer and wine to be sold on credit by their respective wholesalers, who, in many instances buy on up to 30-days credit from the manufacturers. There is somewhat of a division in the retail tier of the industry with some wanting the credit conditions and others fearing such provisions would be available only to the chains and not to the smaller operators.

The wholesalers voiced their opposition to the abolishment of the "cash law" and voiced support for a proposed amendment which would maintain the cash law concept in a proposed overhaul to RCW 66.28.010.

The retailers also expressed their support of having practical language adopted which would permit what could be termed commonly accepted business practices to be available between the tiers. This practice could include lunches, dinners, golf fees, tickets, other entertainment paid for by manufacturers/wholesalers and directed to the retailers.

The wholesalers voiced support for a conditional proposal which would allow for some entertainment activities to be hosted by wholesalers and manufacturers and supported adoption of language already in place in Oregon. The wholesalers also indicated this type of language would bring to an end many "technical" violations of the "tied-house" statute which have been detected by spot checks of expense accounts of wholesalers.

Whether or not the existing "tied-house" law (RCW 66.28.010) will be replaced by a more liberalized version of the federal "tied-house" law is debatable. The wholesalers believe the federal statute is unenforcable since commercial bribery and exclusion are factors which are required for a violation to be proven.

2. LIMITING BOARD REGULATION OF ENTERTAINMENT ON LICENSED PREMISES

The proposals (H-79 A&B) would limit the Board's authority to regulate entertainment by providing for "blanket" approval at the start of each license period for specifically requested entertainment to be on the premises.

Resp to Costco RFP  
6108

PLAINTIFF'S  
EXHIBIT

CASE  
NO. CV04-0360P

EXHIBIT  
NO. 083

There was testimony from the Washington Wine Institute and Champs d'Brionne as to the Board's requiring approval for activities and the "unnecessary" and time-consuming requests for such entertainment. The overall explanation of the Board's authority to regulate entertainment was discussed and after the Board's testimony in response to that from the Institute, Chairman Wang determined the proposals would be placed on hold while efforts were made to resolve the problems between the parties involved rather than propose legislation. The Board's position included indicating that prior approval on a long-term basis was already practiced by many licensees, including Champs.

Neither proposal A or B would curtail the Board's authority under WAC 314-16-125 as pointed out by Chairman Wang. The indications of denials in the past were on requests which centered on local musicians appearing in tasting rooms on short notice.

### 3. FORTIFIED WINE

The Committee heard a staff briefing on the status of the fortified wine legislation and subsequent court challenge in King County. The Committee's staff explained various potential alternatives for the existing law ranging from sales by the Liquor Control Board only to an all out statewide ban to repeal of the existing statute. Consensus was that the existing law was not doing what was intended nor did it appear to have a promising future.

No decision was made as the Committee will take up the issue in more depth at the December meeting. The Board's emphasis patrol in the Pioneer Square, International District/Regrade was explained and the continuing efforts which will be made to enforce sales to intoxicated persons and discourage drinking in public was covered by the Board's testimony.

### 4. ISSUANCE OF LICENSES WHERE INCOMPATIBLE WITH SURROUNDING AREA

A rehash of legislation proposed in 1988 which did not clear the House of Representatives even though it passed out of the Commerce and Labor Committee. The necessity for the Board to have specific statutory reasons for denials was discussed and there will probably be formal proposals forthcoming at the next meeting scheduled for December.

### 5. REVISING THE CALCULATION AND DISTRIBUTION OF LIQUOR REVENUES

A progressive proposal would repeal all existing distribution of funds formulas as to dedicated monies and require agencies such as DSHS and the administration of WSU and the U of W to request funding on an annual basis for programs which would have to be approved by the Legislature rather than giving a specific amount of money with no direction as to explicit use.

While this proposal has a fresh approach to responsible distribution of money derived from taxes and the sale of alcoholic beverages, it will undoubtedly be subjected to a tremendous amount of opposition from those bodies already receiving specific amounts or percentages without their being required to justify such allocations. As with any proposal this sweeping, it will probably take a couple of sessions to realize.

#### 6. CHEMICAL ANALYSIS OF WINE

The Board's chemical analysis of wine for label approval came under review as the Washington Wine Institute pointed out to the Committee that the process did nothing to protect the public's health and safety.

The testimony from the Institute included the charges that the tests by the Board were of an asthetic nature rather than analytical nature and were more of a personal choice for consumers as to the actual taste and/or appearance of a particular wine.

The Institute also challenged the Board's overall label approval process as being duplicative of the federal process and unnecessary. The questions posed by the Committee ranged from whether or not the label approval testing procedure would guarantee product integrity after the initial testing; whether the tests conducted were not repetitive of those conducted by the BATF in market basket testing programs; and whether there was a supportable need for such testing to continue as alternatives were available which would serve the same purpose, such as certifications by wineries as to alcohol content, etc.

It would appear as though the Board's program will receive detailed scrutiny in December and the continuation of the program without legislative intervention appears to hinge on whether or not the tests actually are for the protection and health of the consumers. The Institute would intend the Committee to sponsor legislation which would halt the Board's authority to conduct testing and label approval processes. (This should be a major issue as the final pre-legislative hearing commences.)

The next meeting of the Committee will be in early December. At that time, the Committee will hear final testimony and prepare bills for introduction prior to the start of session. Pre-filed bills are assigned to Committee the first few days of the session and are the first to have hearings. Usually, committee-sponsored bills indicate most of the problems have been resolved and the proposals are ready for final consideration and action by the rest of the legislators.